

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 23, 2002

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO THE INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
MEMPHIS NETWORKX LLC**

**DOCKET NO.
02-00834**

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 9, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Memphis Networkx, LLC.

The original interconnection agreement between these parties was filed under Docket No. 01-00806 together with a petition requesting its approval on September 17, 2001.¹ The original interconnection agreement and the petition requesting approval were considered at the regularly scheduled Authority Conference held on December 4, 2001 and again at an Authority Conference

¹ On October 9, 2001 BellSouth also filed a second petition requesting approval of another amendment which changed the company's name from Memphis Networkx to Memphis Networkx, LLC.

held on December 5, 2001. Thereafter, a majority² of the Directors voted to allow the agreement to go into effect on December 17, 2001 pursuant to Section 252(e)(4) of the Act.³ The first amendment to the agreement was filed on May 21, 2002 under Docket No. 02-00589. The Authority approved the first amendment on July 23, 2002. The second amendment, which is the subject of this docket, was filed on July 31, 2002.

Based upon the review of the second amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the

² The terms of the former Directors of the Authority, Chairman Sara Kyle, and Director H. Lynn Greer, Jr. and Director Melvin J. Malone, expired on June 30, 2002. Chairman Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Deborah Taylor Tate, Pat Miller and Ron Jones began terms as Directors on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Chairman Kyle and Directors Tate and Director Miller was randomly selected and assigned to this docket.

³ See *In Re: Approval of the Interconnection Agreement and Amendment Thereto Negotiated by BellSouth Telecommunications, Inc. and Memphis Networkx Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*, Docket No. 01-00806, *Order*, p. 3 (March 28, 2002). See also 47 U.S.C. § 252(e)(4)(Supp. 2000) which provides that this type of agreement is deemed approved ninety (90) days after submission for approval by a state commission where the commission does not approve or reject the agreement.

agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).⁴ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

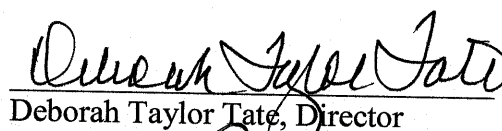
5) No person or entity has sought to intervene in this docket.

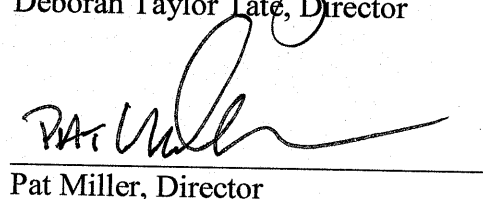
6) The fifth amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Memphis Networx, LLC is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

⁴ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).